

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 BROWNSVILLE DIVISION

4 USA § CASE NO. 4:22-cr-00560-1  
§ BROWNSVILLE, TX  
5 VERSUS § WEDNESDAY,  
§ NOVEMBER 16, 2022  
6 MARTINEZ, et al. § 10:43 AM TO 10:50 AM

7 INITIAL APPEARANCE

8 BEFORE THE HONORABLE GEORGE HANKS  
UNITED STATES MAGISTRATE JUDGE

9 APPEARANCES:

10 11 FOR THE PARTIES: SEE NEXT PAGE

12 COURT REPORTER: JENNIFER LONGORIA

13 COURT CLERK: DORI REYNA

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1 APPEARANCES:

2 FOR THE PLAINTIFF: OFFICE OF THE U.S. ATTORNEY  
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1                   BROWNSVILLE, TEXAS; WEDNESDAY, NOVEMBER 16, 2022; 10:43 AM

2                   THE COURT: All right. Let's call United States of  
3 America versus -- and that is -- there's no criminal number.  
4 This is a CV case.

5                   CLERK: 560.

6                   THE COURT: 560?

7                   CLERK: 22-cr-560.

8                   THE COURT: Okay.

9                   CLERK: Dash 1, dash 4, and dash 12.

10                  THE COURT: All right. Then let's call 22-560-1.  
11 I'm sorry. What are the numbers here? This is absolutely  
12 unforgiveable. Explain the numbers to me. Just mark them.  
13 All right. 22-560, United States v. Carlos Favian Martinez,  
14 Pedro Antonio Calvillo Hernandez, and Jose De Jesus Tapia  
15 Fernandez. That's dash 1, dash 4, and dash 12.

16                  MR. HAGAN: Bill Hagan for the United States, Your  
17 Honor.

18                  THE COURT: Mr. Hagan. All right. Swear the  
19 Defendants, please.

20                  CLERK: Please raise your right hands. Do you  
21 solemnly swear to tell the truth, the whole truth, and nothing  
22 but the truth, so help you God?

23                  MR. MARTINEZ: Yes.

24                  MR. HERNANDEZ: Yes.

25                  MR. FERNANDEZ: Yes.

1 THE COURT: Mr. Hagen, under Rule 5, as counsel for  
2 the United States in order to comply with this disclosure  
3 obligation under Brady v. Maryland and its progeny, failure to  
4 do so may result in the dismissal of charges, exclusion of  
5 evidence, adverse jury instructions, contempt proceedings, and  
6 sanctions. You understand all that?

7 MR. HAGEN: I understand, Your Honor.

10 MR. GARZA: No, I do not have any forms. They  
11 understand their position.

16 MR. MARTINEZ: High school.

17 THE COURT: Do you read and write English?

18 MR. MARTINEZ: Yes.

19 THE COURT: Do you understand what the -- what I'm  
20 telling you?

21 MR. MARTINEZ: Yes.

22 THE COURT: All right. Sir, you next. What is --  
23 don't tell me your name. How far did you go in school?

24 MR. HERNANDEZ: Preparatory school.

25 THE COURT: Okay. Do you read and write Spanish?

1 MR. HERNANDEZ: Yes, sir.

2 THE COURT: Do you understand what the court  
3 interpreter is telling you?

4 MR. HERNANDEZ: Yes, sir.

5 THE COURT: The next gentleman, what is -- don't tell  
6 me your name. Let me just ask you how far did you go in  
7 school?

8 MR. FERNANDEZ: Attorney.

9 THE COURT: Okay. Do you read and write Spanish?

10 MR. FERNANDEZ: Yes, sir.

11 THE COURT: Do you understand what the court  
12 interpreter is telling you?

13 MR. FERNANDEZ: Yes, sir.

14 THE COURT: Gentlemen, have either of you or any of  
15 you ever been treated for a mental illness or committed to a  
16 mental institution of any sort?

17 MR. FERNANDEZ: No, sir.

18 MR. HERNANDEZ: No, sir.

19 MR. MARTINEZ: No, sir.

20 THE COURT: Negative from all. Are any of you under  
21 the influence of anything, drugs, alcohol, or medication, that  
22 prevent you from thinking clearly?

23 MR. FERNANDEZ: No, sir.

24 MR. HERNANDEZ: No, sir.

25 MR. MARTINEZ: No, sir.

1 THE COURT: Negative from all. Gentlemen, the three  
2 of you have been arrested based upon a warrant that was issued  
3 in Houston, Texas. That warrant alleges a number of things  
4 against you. Mr. Martinez, you are named in Counts I through  
5 XI. Mr. Hernandez, you are named in Counts I through III and  
6 V. Mr. Fernandez, you are named in Counts V and Counts IX  
7 through XI. Now, each of you need to understand that you have  
8 a right to remain silent. Anything you say can and will be  
9 used against you in a court of law. If you're not a United  
10 States citizen, you would also have the right to have someone  
11 notify the consulate office of your home country informing that  
12 office that, in fact, you have been arrested and detained in  
13 this country.

14 You also have the right to an identity hearing. That  
15 is to determine who you are. You only have the right to one  
16 detention hearing either here or in the charging district, that  
17 is in the charging -- in the district in Houston. If you waive  
18 them -- you can waive them if you want. Now, what's the  
19 decision with respect to each of these individuals?

20 MR. GARZA: My understanding, Your Honor, first of  
21 all, that they understand the (indiscernible) as you explained  
22 it to them. They are hiring an attorney to represent them, and  
23 they wish to go to Houston to have the arraignment and the  
24 detention hearing with their private attorney.

25 THE COURT: Okay. Is that what you want, sir?

1 MR. MARTINEZ: Yes, sir.

2 THE COURT: All right. And you?

3 MR. HERNANDEZ: Yes, sir.

4 THE COURT: And you as well?

5 MR. FERNANDEZ: Yes, sir.

6 THE COURT: All right. Then --

7 MR. GARZA: And for the record, Your Honor, I  
8 provided them copies with the -- copies of the indictment so  
9 they each have a copy.

10 THE COURT: Okay. All right. So each of you have a  
11 copy of the indictment.

12 MR. FERNANDEZ: Yes, sir.

13 MR. HERNANDEZ: Yes, sir.

14 MR. MARTINEZ: Yes, sir.

15 THE COURT: And each of you are prepared to go -- to  
16 be transported to Houston so that you can answer the charges  
17 that are against you. Is that correct?

18 MR. FERNANDEZ: Yes, sir.

19 MR. HERNANDEZ: Yes, sir.

20 MR. MARTINEZ: Yes, sir.

21 THE COURT: All right. Then each of you are remanded  
22 to the custody of the marshals in your current status pending  
23 further proceedings. Thank you, sir. Okay.

24 MR. FERNANDEZ: Thank you.

25 MR. HERNANDEZ: Thank you.

1 MR. MARTINEZ: Thank you.

2 MR. HAGEN: And Your Honor, there is an order of  
3 detention and (indiscernible) arraignment.

4 THE COURT: Yeah, that's correct. At least there is  
5 none that I'm aware of because they've been arrested here, but  
6 they're being tried in Houston. And so what's going to happen  
7 is that we've got kind of a combination of a Rule 40 and not a  
8 Rule 40.

9 MR. HAGEN: I just want the record to be clear that  
10 the Government does want these Defendants detained and we would  
11 like a detention hearing --

12 THE COURT: Okay. All right.

13 MR. HAGEN: -- as provided by law.

14 THE COURT: Okay. Well -- and you did get the  
15 detention hearing, but you only get one. Either here or in  
16 Houston.

17 MR. HAGEN: No, in Houston's fine, but I just -- I  
18 think that -- I didn't want efforts to be made for release  
19 while --

20 THE COURT: Yeah, they're not going to be released.  
21 They're going to be transported to Houston and to answer to the  
22 charges that are -- that have been levied against them. All  
23 right?

24 MR. GARZA: That's what I explained to them.

25 THE COURT: Yes. That's exactly right. All right.

1 Anything else that we need to talk about?

2 MR. GARZA: No. Not today.

3 THE COURT: Okay. Then each of you -- do you have  
4 any questions, sir?

5 MR. MARTINEZ: No, no. Thank you.

6 THE COURT: All right. Then each of you are remanded  
7 to the custody of the marshals in your current status pending  
8 transfer to Houston. Thank you very much.

9 MR. MARTINEZ: Thank you, sir.

10 THE COURT: Okay. Make sure that they go quickly.

11 MR. HAGEN: May I be excused, Judge?

12 THE COURT: Yeah. Can't figure out who's on first  
13 here.

14 (Hearing adjourned at 10:50 A.M.)

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1 C E R T I F I C A T I O N

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3 I, Sonya Ledanski Hyde, certified that the foregoing  
4 transcript is a true and accurate record of the proceedings.

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*Sonya M. Ledanski Hyde*

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Date: February 9, 2023